IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 24245 of 2004

Between:

1. M/s. Anwar Natural Button Pvt. Ltd.

(Formerly M/s. Ansar Traders) rep by

Managing Partner MR. Mohd. Ahmed Ansari,

S/o Mohd. Farooq Ansari, R/o 9-4-87/46/62,

Brindavan Colony, Tolichowki, Hyderabad

and factory at Sy. No. 194, Jalpalli Village,

Saroornagar Mandal, RR District.

2 M/s. Ansar Steels, rep by Prop. Mr. Mohd Ahmed Ansari,

Factory at Sy. No. 194, jalpalli Village, Saroornagar

Mandal, Ranga Reddy District, Office at 9-4-87/46/62,

Brindavan Colony, Tolichowki, Hyderabad.

3 Mohd. Ahmed Ansari, S/o late Mohd. Farooq Ansari,
R/o 218, Brindavan Colony, Towlichowki, Hyderabad.

4 Dr. Mohd. Ehtesham Ansari, S/o late Mohd. Farooq

Ansari , R/o 217, Brindavan Colony, Towlichowki,

Hyderabad .

..... PETITIONERS

AND

1. State Bank of Hyderabad having its Head Office at

Gunfoundary, Hyderabad, A.P. and Branch at

Puranapul Hyderabad, rep by Branch Manager,

Mr. Khalid Binahmed, S/o Ahmed Bin Abdullah.

2 Mohd. Ameenuddin, S/o Mr. Ahmed Mohinuddin,
R/o 13-6-437/B/1A, Bahaduryar Jung Colony,

Gudimalkarpur, Hyderabad.

(R2 is not necessary party to this petition)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ or order or direction particularly one in the nature of Writ of Certiorari setting aside the order of the Debt Recovery Appellate Tribunal Chennal dt 13-10-2004 passed in MA No. 136 of 2004 by confirming the orders of the Debt Recovery Tribunal in I.A. No. 892 of 2004 in O.A. No. 205 of 2002 dt 31-8-2004 and the same may be quashed by calling the records.

Counsel for the Petitioners: MR.K.K.WAGHRAY

Counsel for the Respondent No. 1: MR.K.V.SIMHADRI, Standing Counsel.

The Court made the following:

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

ORDER: (per Sri B. Sudershan Reddy, J)

In our considered opinion, the impugned order passed by the Debt Recovery Appellate Tribunal at Chennai
dated 13-10-2004 whereunder the order passed by the Debts Recovery Tribunal at Hyderabad has been upheld does not suffer from any legal infirmities or jurisdictional errors requiring interference in exercise of our Certiorari jurisdiction. Suffice it to note that the order passed by the Debts Recovery Tribunal as confirmed by the appellate Tribunal is not vitiated by any errors apparent on the face of the record.

The appellate Tribunal having reappreciated the entire material available on record came to the right conclusion that it would not be appropriate and safe to rely upon the self-serving affidavit filed by the petitioner herein in support of the application to set aside the ex parte decree on the ground that his advocate instead of noting the date correctly as 12-01-2004 wrongly noted the date as 12-03-2004 and the said date of 12-03-2004 was intimated to him. The Tribunal as well as the appellate Tribunal held that in the absence of any supporting evidence from the advocate to whom mistake is attributed, it would not be possible to rely upon the affidavit filed by

the petitioner. The Tribunals have taken the correct view.

Obviously, the petitioner is indulging in speculative litigation to postpone the proceedings on one or the other ground.

In such view of the matter, we are not inclined to go into the question as to whether the decision of the Tribunal is the one on merits or an ex parte order. The remedies of the petitioner are left open.

The writ petition fails and shall accordingly stand dismissed.

(B. Sudershan Reddy, J)

14-03-2005

(C.V. Ramulu, J)

ks

To

1. State Bank of Hyderabad having its Head Office at

   Gunfoundary Hyderabad, A.P. and Branch at

   Puranapul Hyderabad, rep by branch Manager,

Mr. Khalid Binahmed, S/o Ahmed Bin Abdullah.

2. 2 CD copies

3. 1 CC to MR.WAGHRAY

4. 1 CC to MR.SIMHADRI